IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

PUBLIC INTEREST LITIGATION NO.11 OF 2006

Shri Pushparaj Deshmukh & Ors. ...Petitioners.
Vs.
State of Maharashtra. ...Respondent.

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Mr. S.P. Kanuga with Mr. H.P. Vyas for the Petitioners.
Mr. P.P. Kakade, AGP for the Respondent.

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CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

March 22, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.) :

The Petitioners who claim to be social workers have challenged the vires of a Circular dated 5th August 2005 issued by the State Government to deal with the problem of bogus Ration Cards. The State of Maharashtra issued the Maharashtra Foodgrains Rationing (Second) Order, 1966, inter alia to provide for the establishment of authorised Ration Shops and for the issuance of Ration Cards to fulfill the object of the Essential Commodities Act, 1965. In exercise of the power conferred by clause 10 of the Order of 1966, the State Government made the Maharashtra Foodgrains Rationing (Second) Regulations, 1966, Regulation 3 lays down the procedure for obtaining Ration Cards

and inter alia provides as follows:

> "3. Procedure for obtaining ration cards.- (1) Household ration card – Any person, residing or intending to reside in any rationing area, to whom a ration card is not issued or whose name is not included in any ration card and who desires to have a ration card issued for himself, and members of his household (if any), to whom ration cards are not issued or whose names are not included in any other ration card, may apply to the Rationing Officer of the area in which he resides or intends to reside and furnish true and correct information in Form-I."

Regulation 17 provides that on receipt of any application under the Regulations, the Rationing Officer may make or cause to be made such enquiry as he deems fit, for verification of the information furnished by the applicant. A Circular was issued by the State Government on 21st November 1998 for the guidance of the Supply Department. It is stated that in 2001, the State Government issued three categories of Ration Cards, namely, Income Tax payers were issued white cards, persons above the poverty line were issued yellow cards and those below the poverty line were issued saffron coloured cards. The State Government issued a Circular on 5th August 2005, in order to conduct a due verification for the purposes of detecting and curbing the practice of bogus Ration Cards.

2. The contention of the Petitioners is that the Circular dated 5th August 2005 provides for production of certain documents on the basis of which a verification is conducted. It is the submission of the Petitioners that persons below the poverty line who reside on pavements or by the side of Railway Tracks or in hutments do not possess a Bank Pass Book or rent receipt and the insistence on documents would lead to defeating the laudable object underlying the provision of essential commodities at reasonable rates.

3. We have compared the English translation of the Circular dated 5th August 2005 with the original in Marathi and we find that the translation, at least in the material parts of the circular, is inaccurate. The Circular provides that from time to time the administration had issued directions to its Regional Authorities to conduct a scrutiny and to revoke bogus Ration Cards. In the City of Solapur, it was noted, the number of Ration Cards that had been issued exceeded the population. Having regard to the ground reality, the State Government had initiated a drive to detect bogus Ration Cards and to ensure that proper steps are taken. The

Circular dated 5th August 2005 lays down the procedure which has to be followed for verification.

4. The grievance of the Petitioner is in respect of clause 4 of the aforesaid Circular and it has been submitted in the petition that every person may not necessarily be in possession of five categories of documents, namely, (i) a Bank pass-book; (ii) a rent receipt; (iii) a letter of a housing society; and (v) enrollment in the voters' list of 2001. Now a reading of Clause 4 of the Circular dated 5th August 2005, is sufficient to indicate that the apprehension of the Petitioner is unfounded. What clause 4 postulates is that when forms are filled out, the person concerned must furnish proof of residence in the area concerned. For instance, this may include enrollment in the Voters' List of 2001, a Bank pass-book, rent receipt, other forms of identification, a letter from a Co-operative Society and proof of residence in the form of letters of residence from Government/CIDCO/MHADA etc. Other documentary evidence by way of proof of residence is also admissible and it has been stated that the proof that is submitted must be of recent origin, not more than one year old. The terms of the Circular, thus, do not provide an exhaustive list of what

material would be regarded as adequate proof of residence. The documents which are enunciated in clause 4 are only illustrative and this is clear from a bare reading of the Circular. The apprehension of the Petitioners, set out in para 7 of the petition, that it is only five categories of documents that are accepted proof of residence is not borne out by the language of the circular.

5. Government has, as a matter of policy decided to conduct a verification of Ration Cards. The underlying reason is that the issuance of bogus Ration Cards cuts at the root of the system of distribution and ultimately leads to a deprivation of benefits to those who are genuinely in need of protection. This is a matter of policy in which this Court would not be justified in exercising its jurisdiction under Article 226 of the Constitution. The right to food is a fundamental right under Article 21 of the Constitution. As a matter of constitutional principle, the conditions which are prescribed for the issuance of foodgrains under the public distribution system cannot be such as would render the achievement of the object of the scheme illusory. We do not find that the conditions in the present case are of that nature. The administration, should it be apprised of any hardship that is

caused, would be alive to the issue just as it cannot afford to ignore the ground realities regarding the prevalence of bogus Ration Cards.

6. In these circumstances, we do not find this to be a fit and proper case to exercise our extraordinary jurisdiction under Article 226 of the Constitution. The petition is dismissed.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.